

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

KENNETH LEE TAYLOR,) No. C 07-4147 MMC (PR)

Petitioner,)

v.)

ROBERT AYERS, Warden,)

Respondent.)

**ORDER GRANTING PETITIONER'S
REQUEST FOR EXTENSION OF TIME
TO FILE NOTICE OF APPEAL AND
CERTIFICATE OF APPEALABILITY**

(Docket No. 27)

On August 13, 2007, petitioner, a California prisoner proceeding pro se, filed the above-titled petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Thereafter, the Court granted respondent's motion to dismiss the petition as untimely, and, on June 24, 2010, judgment was entered in favor of respondent. That same date, the Clerk mailed a copy of the order of dismissal and judgment to petitioner at his address at San Quentin State Prison, the most recent address he had provided to the Court.

On August 5, 2010, petitioner sent to the Court a letter seeking an extension of time to file a request for a certificate of appealability ("COA"), on the ground he did not receive the Court's order and judgment until July 21, 2010, due to his transfer to Pelican Bay State

1 Prison.¹ The Court construes the above-referenced letter as a request for an extension of time
 2 to file a notice of appeal. Cf. Tinsley v. Borg, 895 F.2d 520, 523 (9th Cir. 1990) (treating
 3 timely pro se motion for certificate of appealability as timely notice of appeal).

4 Federal Rule of Appellate Procedure 4(a) is the exclusive avenue for relief from the
 5 expiration of the period to file a timely notice of appeal. See In re Stein, 197 F.3d 421, 426-
 6 27 (9th Cir. 2000). Rule 4(a)(5) allows for an extension of time to appeal if the party
 7 requests such relief within thirty days of the expiration of the time to file the notice and
 8 shows excusable neglect or good cause. See Fed. R. App. P. 4(a)(5). The extension must be
 9 to a date no more than thirty days after the original deadline, or fourteen days after the entry
 10 of the order granting the motion, whichever is later. See id


11 GOOD CAUSE APPEARING, petitioner's motion for an extension of time to file a
 12 notice of appeal and COA is hereby GRANTED. Petitioner shall file the notice of appeal
 13 and COA within **fourteen** days of the date this order is filed.

14 Petitioner also asks the Court for an order informing prison officials that petitioner has
 15 a court deadline for filing the notice of appeal and COA, so that he may be provided with
 16 priority user status in the prison law library. To the extent petitioner seeks a separate order
 17 setting forth such deadline, the request is denied, as petitioner may provide a copy of the
 18 instant order to prison officials for that purpose.

19 This order terminates Docket No. 27.

20 IT IS SO ORDERED.

21 DATED: October 22, 2010

22 
 23 MAKINE M. CHESNEY
 24 United States District Judge

25
 26
 27 ¹Petitioner states in his letter that he sent to the district court in "February or March of
 28 2010" a notice of his change of address to Pelican Bay State Prison. (Docket No. 27 at 1:23-
 24.) The docket, however, contains no entry reflecting the court's receipt of any such notice.